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TOR:270430Z NOV 76

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FM US MISSION EC BRUSSELS

TO RUEHC/SECSTATE WASHDC 2427

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BT

C O N F I D E N T I A L

LIMITED OFFICIAL USE EC BRUSSELS 11589

E.O. 11652: N/A

TAGS: PLOS EEC IC

SUBJECT: EC CONSIDERATION OF LOS MATTERS

REF: STATE 275890

1. SUMMARY: THE MEETING ON NOVEMBER 11 OF THE OCEAN SEABEDS WORKING GROUP OF THE EC LAW OF THE SEA COMMITTEE WAS CONCERNED PRIMARILY WITH A GENERAL ASSESSMENT OF THE RESULTS OF LAST SUMMER'S SESSION OF THE UN LOS CONFERENCE, ACCORDING TO MICHAEL HARDY, EC COMMISSION LEGAL ADVISOR. THE DISCUSSIONS AT THIS MEETING, HE SAID, WERE QUITE GENERAL, GOING WELL BEYOND SEABEDS AND REVIEWED LIKELY DEVELOPMENTS AND GOALS IN UPCOMING LOS NEGOTIATIONS IN ORDER TO PREPARE FOR THE FORTHCOMING MEETING OF EC MEMBER STATES' HEADS OF LOS DELEGATIONS IN BRUSSELS DEC 10. TO HELP PREPARE FOR THE MEETING, HE ASKED FOR WHATEVER DETAILS THE US COULD GIVE THE COMMITTEE ON MEASURES TO IMPLEMENT THE SECRETARY'S SEPTEMBER 1-2, 1976 PROPOSALS AT THE UN LOS SESSION. HARDY ALSO NOTED THAT HE REPORTED AT THE MEETING ON THE US-EC CONSULTATIONS ON LOS/FISHERIES ISSUES ON OCTOBER (REF A); THE WORKING GROUP CONCLUDED THAT THEIR VIEWS AND THOSE OF THE US ON MOST LOS MATTERS WERE QUITE SIMILAR. END SUMMARY.

2. EC COMMISSION LEGAL ADVISOR MICHAEL HARDY RECENTLY TOLD MISSION OFFICER THAT WHILE NO ATTEMPT WAS MADE TO ARRIVE AT DECISIONS, THE NOV. 11 DISCUSSIONS IN THE OCEAN SEABEDS WORKING GROUP OF THE EC LAW OF THE SEA COMMITTEE SERVED TO IDENTIFY VIEWS ON A NUMBER OF ISSUES, INCLUDING:

A. IMPLEMENTATION OF SECRETARY'S LOS PROPOSALS. HARDY SAID THAT DETAILS ON SECRETARY KISSINGER'S

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SEPTEMBER 1-2 PROPOSALS AT THE UN LOS SESSION IN NEW YORK REGARDING VARIOUS ASPECTS OF THE EXPLOITATION OF THE SEABEDS WOULD HELP THE COMMUNITIES' OWN CONSIDERATION OF THESE MATTERS AND REDUCE POSSIBLE DIVERGENCE OF VIEWS. HE EXPRESSED THE HOPE THAT AT LEAST SOME PRELIMINARY INDICATION OF US VIEWS COULD BE PROVIDED FOR CONSIDERATION AT THE DECEMBER 10 EC LOS MEETING.

B. MEETING WITH THE ACP STATES. HARDY SAID THAT THE NOV 11 WORKING GROUP ALSO DISCUSSED THE DESIRE EXPRESSED BY THE ACP STATES FOR A MEETING WITH THE EC ON EXPLOITATION OF THE SEABEDS. IN ORDER TO AVOID COMMITMENTS OR THE IMPRESSION OF "NEGOTIATIONS", THE MEETING (WHICH MIGHT TAKE PLACE IN FEBRUARY 1977) WOULD BE DESCRIBED AS A TECHNICAL SEMINAR OR COLLOQUIUM DESIGNED TO PROVIDE GENERAL INFORMATION ON PRACTICAL PROBLEMS, SUCH AS SEABEDS MINING TECHNOLOGY. OTHER QUESTIONS, SUCH AS THE ECONOMIC VIABILITY AND MANAGEMENT OF DEEP SEA MINING VENTURES COULD ALSO BE DISCUSSED BUT ONLY TO PROVIDE BACKGROUND INFORMATION.

C. ANTI-MONOPOLY CLAUSE. HARDY NOTED THAT THE WORKING GROUP MEETING REVEALED A CLEAR DIVISION OF OPINION BETWEEN THE PARTICIPANTS ON THE DESIRABILITY OF ACCEPTING AN "ANTI-MONOPOLY" FOR "ANTI-DOMINANCE" CLAUSE IN THE LOS TREATY REGARDING SEABEDS EXPLOITATION. IN ORDER TO AVOID A SPLIT AMONG THE WESTERN DEVELOPED STATES ON THIS ISSUE WHICH MIGHT PLACE SOME OF THEM ON THE SIDE OF THE G-77 AND THE SOCIALIST STATES, HARDY SAID THAT THE EC REPS RECOGNIZED THAT INDIVIDUAL EC STATES WOULD HAVE TO SHOW SOME FLEXIBILITY ON THIS ISSUE. THERE WAS A FEELING THAT, DESPITE INTERNAL RATIFICATION PROBLEMS, THE US SHOULD ALSO BE PREPARED TO ACCEPT SOME COMPROMISE OR IT MIGHT FIND ITSELF RELATIVELY ISOLATED. HARDY STRESSED, HOWEVER, THAT FORMAL STUDY OF THE ANTI-MONOPOLY CLAUSE IS STILL UNDER WAY IN THE EC.

D. RECASTING THE NEXT LOS SESSION. HARDY SAID THAT MOST REPRESENTATIVES AT THE NOV 11 MEETING WISHED TO CONSIDER THE POSSIBILITY OF A NEW APPROACH FOR THE NEXT SESSION OF THE LOS CONFERENCE STARTING IN MAY 1977.

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THE FACT THAT AGREEMENT HAS BEEN REACHED ON MOST TOPICS IN COMMITTEE II, HE SAID, MAKES THE UNRESOLVED ONES IN COMMITTEES I AND III STAND OUT EVEN MORE AND THEIR SETTLEMENT APPEAR MORE REMOTE. MANY FELT THAT BECAUSE OF CHANGING CONDITIONS, THE NEXT LOS SESSION MIGHT CONSIDER CONCENTRATING ON REMAINING ISSUES INDIVIDUALLY RATHER THAN TRYING TO RESOLVE THEM IN A PACKAGE. A NEED WAS ALSO EXPRESSED AT THE MEETING FOR A REVIEW OF WHAT REMAINS TO BE DONE, WHAT APPEARS ACHIEVABLE AND WHEN. HE SAID THAT WHILE THE EC HAD NOTHING DEFINITE TO SUGGEST AT THIS TIME, IT WOULD GIVE THESE MATTERS FURTHER THOUGHT.

3. COMMENT: HARDY STRESSED THAT HE WAS NOT PRESENTING A FORMAL EC POSITION ON LOS MATTERS BUT MERELY HIS VIEW OF THE CURRENT THINKING OF THE OFFICIALS IN THE COMMISSION AND MEMBER STATES CONCERNED WITH THE SUBJECT. WE BELIEVE THAT PROVIDING FURTHER INFORMATION ON THE SUBSTANCE OF THE SECRETARY'S SEABEDS PROPOSALS AT THE LAST UN LOS SESSION COULD GIVE US A GOOD OPPORTUNITY TO INFLUENCE THE DELIBERATIONS OF THE EC NINE AT THEIR DECEMBER 10 MEETING. ACTION REQUESTED: WE WOULD APPRECIATE ANY APPROPRIATE INFORMATION WE COULD PASS TO HARDY IN RESPONSE TO HIS REQUEST. HINTON

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